

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SALEHOO GROUP LTD., a New Zealand
Limited Liability Company,

Plaintiff,

v.

ABC COMPANY, an entity of unknown
origin and/or JOHN DOE, individually,

Defendants.

Civil Action No.

COMPLAINT FOR TRADEMARK
INFRINGEMENT, FALSE DESIGNATION
OF ORIGIN AND UNFAIR
COMPETITION AND DEFAMATION

JURY TRIAL REQUESTED

Plaintiff SaleHoo Group Ltd. ("SaleHoo") hereby alleges the following causes of action
against Defendants.

I. PARTIES

1. SaleHoo is a New Zealand limited liability company having its principal place of
business at Level 2, 107 Cashel Street, City Mall, Christchurch, New Zealand.

2. ABC Company is an entity of unknown type and origin and John Doe is an
individual of unknown citizenship and residence. On information and belief, one or both
Defendants own and/or control the domain name *salehoosucks.com* and corresponding Internet
website www.salehoosucks.com, including the development and publication of the
www.salehoosucks.com website, its content and related business and commerce. The identity of

1 the owner of the *salehoosucks.com* domain name and associated website has been
2 unsuccessfully sought by SaleHoo and is presently shielded from disclosure by Domains by
3 Proxy, Inc., which has listed itself as the registrant of the domain name as part of its anonymous
4 domain name service. Domains by Proxy, Inc. has refused to provide the identity of the owner of
5 the *salehoosucks.com* domain name absent service of legal process. Likewise, it is the policy of
6 the registrar, GoDaddy.com, Inc., not to disclose identity or account information absent service
7 of legal process. Accordingly, SaleHoo intends to pursue identity and account information via
8 legal process as soon as possible. SaleHoo will amend the complaint to identify the correct
9 Defendant(s) as soon as it is able to obtain such information.

10 II. JURISDICTION AND VENUE

11 3. This action arises under the trademark laws of the United States of America,
12 15 U.S.C. § 1051 *et seq.* Jurisdiction over the trademark infringement and false designation of
13 origin and federal unfair competition claims is conferred upon this Court by 28 U.S.C. §§ 1331
14 and 1338. Supplemental jurisdiction is conferred upon this Court over the remaining related state
15 and common-law claim derived from a common nucleus of operative fact that form part of the
16 same case or controversy. 28 U.S.C. § 1367(a).

17 4. Defendants incorporate and use the identical SALEHOO mark throughout the
18 www.salehoosucks.com website as well as in the *salehoosucks.com* domain name. Defendants
19 have and continue to use SaleHoo's trademark in the advertising, promotion, offering and/or
20 provision of products and services, including via Internet websites wherein they interactively sell
21 products and provide services. Defendants' websites are directed to and accessible by residents
22 of this judicial district. Accordingly, both jurisdiction and venue are proper in this court.
23 28 U.S.C. §§ 1391 and 1400.

24 III. SALEHOO'S TRADEMARK RIGHTS

25 5. SaleHoo is the owner of intellectual property rights associated with the trademark
26 SALEHOO as used in association with computer software for collecting product market data on

1 the Internet and the provision of online services featuring product sourcing and business
2 information related to online trading and auctions. SaleHoo's trademark rights include
3 U.S. federal trademark registration no. 3,638,102. SaleHoo is also the owner of geographically
4 based common law rights in the SALEHOO trademark stemming from continuous and
5 substantially exclusive use of the mark.

6 6. SaleHoo markets, promotes and provides its products and services throughout the
7 United States and the world in association with its SALEHOO trade name and trademark,
8 including at its www.salehoo.com website. SaleHoo's promotion, advertising, and use of its
9 trade name, trademarks and domain name serves to identify SaleHoo's products and services,
10 distinguish them from those of others, and identify SaleHoo as the source of those products and
11 services. As a result, the trade name, trademarks and domain name have become valuable assets
12 of SaleHoo and a symbol of its goodwill to the general public. Moreover, SaleHoo's use of its
13 trademark and domain name has conditioned Internet users to find SaleHoo and its goods and
14 services through its website.

15 IV. DEFENDANTS' WRONGFUL ACTIVITIES

16 A. TRADEMARK INFRINGEMENT AND LANHAM ACT VIOLATIONS

17 7. Defendants have and continue to use the SALEHOO trademark in website content
18 and as the dominant part of the *salehoosucks.com* domain name to advertise, promote, offer
19 and/or provide products and services. Defendants' use of the SALEHOO mark is confusingly
20 similar to SaleHoo's trademark, particularly given that both marks are used in association with
21 the provision of products and services related to online trading and auctions, including without
22 limitation products and services provided by a Terry Gibbs, his company IWantCollectibles LLC
23 and its product "Auction Revolution."

24 8. The impact of Defendants' actions is particularly acute in the context of Internet
25 products and related commercial services. Defendants' unauthorized use of SaleHoo's trademark
26 allows Defendants to misdirect Internet search engines and, ultimately, the public from

1 SaleHoo's website to that owned, hosted and/or operated by Defendants, where Defendants
2 provide sponsor advertising as well as promote, offer and/or provide information and links to
3 competing products and services. By so doing, Defendants unfairly compete with SaleHoo or
4 otherwise unjustly benefit from their commercial use of SaleHoo's trademark and domain name.

5 9. These acts of Defendants have caused and, unless restrained by this Court, will
6 continue to cause serious and irreparable harm to SaleHoo and to the goodwill associated with its
7 trademark and Internet website. Moreover, Defendants have and will continue to unjustly
8 benefit—at SaleHoo's expense—from gains, profits and advances derived from the products sold
9 and services provided in association with the infringing SALEHOO mark and at the
10 www.salehoosucks.com website.

11 10. Defendants have no license from SaleHoo, and have deliberately and willfully
12 infringed SaleHoo's trademark and engaged in unfair business practices. Defendants' actions
13 constitute trademark infringement in violation of 15 U.S.C. § 1114 as well as false designation of
14 origin and unfair competition in violation of 15 U.S.C. § 1125.

15 **B. DEFAMATION**

16 11. Defendants have created, endorsed and/or knowingly published on their
17 www.salehoosucks.com website false, unprivileged communications with the intention of
18 damaging SaleHoo. By way of example and without limitation, Defendants have: stated that
19 SaleHoo's business is a "scam;" stated that SaleHoo and its legal counsel "threaten anyone who
20 posts information not favorable to SaleHoo on the web with defamation suits;" falsely attributed
21 untrue statements to SaleHoo personnel; and stated that SaleHoo personnel were either "drunk"
22 or "a pathological liar."

23 12. Defendants' statements are provably false or leave a false impression. Defendants
24 have no privilege to make such statements. Defendants' statements have been made knowingly
25 and with the intention of damaging SaleHoo, which has been harmed by Defendants' statements.
26 Accordingly, Defendants' statements constitute actionable defamation in violation of law.

V. PRAYER FOR RELIEF

SaleHoo requests the following alternative and cumulative relief:

1. Preliminary and permanent injunctions against the use of the mark SALEHOO or any other marks confusingly similar thereto, as a service mark, trademark, trade name, domain name or part thereof alone or in combination with other words, symbols, styles, titles or marks in connection with the provision of computer software or products and services related to online trading and auctions;
2. An order that Defendants deliver up for destruction all products, printed material, stationery, business forms, signs, advertisements, brochures, promotional material, manuals, pamphlets, labels, packages, containers, and all other materials bearing the mark SALEHOO, or any derivative, colorable imitation, or confusingly similar marks, together with all means for making or reproducing the same, pursuant to 15 U.S.C. § 1118 and other applicable law;
3. An order that Defendants immediately assign or otherwise transfer to SaleHoo ownership of all domain names incorporating the term “salehoo” or any domain name confusingly similar thereto;
4. An award of damages sufficient to compensate SaleHoo for all injury sustained as a result of Defendants’ wrongful activities, including wrongful profits of Defendants, as provided under applicable law;
5. Exemplary damages and all of SaleHoo’s litigation expenses, including reasonable attorneys’ fees and costs, as provided under applicable law;
6. An assessment of prejudgment interest and costs; and
7. Such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this 19th day of April, 2010.

/David A. Lowe/, WSBA No. 24,453

Email: lowe@blacklw.com

Lawrence D. Graham, WSBA No. 25,402

Email: graham@blacklaw.com

BLACK LOWE & GRAHAM^{PLLC}

701 Fifth Avenue, Suite 4800

Seattle, WA 98104

T: 206.381.3300

F: 206.381.3301

Attorneys for SaleHoo Group Ltd.